

19792

## CONGRESSIONAL RECORD—SENATE

August 19

cotton shall be sold or otherwise made available for export as long as such cotton is in surplus supply as determined pursuant to the provision of section 106 of the Agricultural Trade Development and Assistance Act.

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the bill which we just considered, S. 2687, be printed, as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### A BILL TO AMEND SECTION 8(b) OF THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AND FOR OTHER PURPOSES

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House.

The PRESIDING OFFICER laid before the Senate the bill (H.R. 9178) which was read twice by its title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill, which was ordered to a third reading, read the third time, and passed.

#### AMENDMENT OF SECTION 8(b) OF THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AND FOR OTHER PURPOSES

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which Senate bill 1253, a similar bill, was passed today, and that the bill be indefinitely postponed.

The motion was agreed to.

#### APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 1965, AND FOR OTHER PURPOSES

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I yield to the majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar Order No. 1396, H.R. 10809, that it be laid down and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 10809) making appropriations for the Departments of Labor, Health, Educa-

tion, and Welfare, and related agencies for the fiscal year ending June 30, 1965, and for other purposes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

#### AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, there are several points about the Dirksen amendment which have not been adequately discussed. Before coming to these, I would like to examine the very premise of the amendment. As I understand Senator DIRKSEN's position, he is proposing that enforcement of the Supreme Court's apportionment ruling be delayed so that there will be time to adopt a constitutional amendment reversing that decision. Now, on the surface that is a plausible position. Surely those who oppose a Supreme Court decision interpreting our Constitution have a perfect right to press for a constitutional amendment. The 14th amendment itself was a decision by Congress and the people to change a constitutional interpretation of the Supreme Court. Personally, I would be opposed to the type of constitutional amendment Senator DIRKSEN has in mind, but I do not question his right to present his amendment and have it considered.

The issue raised by the pending rider, however, has nothing to do with whether there should be a constitutional amendment. The real issue is more basic. It is whether any constitutional amendment that may be proposed should be adopted by constitutional or unconstitutional means.

The real issue is whether the State legislatures that may one day consider a constitutional amendment will be constitutionally apportioned or unconstitutionally apportioned.

The real thrust of Senator DIRKSEN's rider is to make sure that his proposed constitutional amendment comes up for ratification in State legislatures which are unconstitutionally apportioned. Indeed, the argument from some of the proponents has been made with refreshing candor. They have argued that unless the Court's decision is stayed for at least 2 years, the States will go ahead

and reapportion, and then, so the argument continues, it will be too late to reverse the result by constitutional amendment. Therefore, they want to make sure that the present arrangements are frozen so that illegally apportioned legislatures get to vote on whether to make themselves legal by amending the Constitution.

It would be unconscionable to let malapportioned legislatures make the decision as to whether malapportionment is to continue.

And what of the argument that after reapportionment, it will be too late? This is saying that a population-based legislature might not vote to go back to a system based partly on geography. Yet the proponents are not the least troubled by the certainty that the existing legislatures would never go forward to a system based on population.

As a matter of fact, population-based legislatures might well give full and fair consideration to a constitutional amendment allowing some variation from strict adherence to population. After all, such proposals have been approved in some States by a majority of all the voters. And a population-based legislature would reflect the sentiment of such a majority.

But a minority-controlled legislature could scarcely be expected to do anything but cling to the system which gives control to the minority.

The issue should not, however, turn on our prediction of what a legislature might do in the future. Our concern should be to make sure that any proposed amendment is considered in a constitutional way. That can occur only if the States go ahead and reapportion. Then we will have lawful legislatures empowered to consider whatever amendment Senator DIRKSEN or others might care to propose.

To adopt the Dirksen "freeze" is to let the boy caught with his hand in the cookie jar decide whether he is to continue his illegal nourishment.

Beyond this most basic argument, the proponents have also contended that delay is necessary to avoid confusion. In my own State of Connecticut, and in many others as well, I believe delay will only add to confusion.

Connecticut now has a special session of its general assembly in progress trying to work out a reapportionment plan that conforms to the Supreme Court ruling. Good faith efforts are being made to reach a constitutional result. Should these efforts be brought to a halt by a stay of the district court's order, confusion will surely be compounded. We will not be sure whether there can be an election for State legislators this November. We will not be sure how to nominate for such positions. We will not be sure what powers such a legislature would have. In short, a situation that is now on the track, moving to a solution, would be derailed into chaos.

There may well be some situations around the country where a stay is in the public interest. If that is so, no legislation is needed to authorize the district courts to grant such a stay. They have such power now.

1964

## CONGRESSIONAL RECORD — SENATE

19793

But in Connecticut a stay would certainly not be in the public interest. Very likely the Dirksen rider would not require a stay in the Connecticut case in any event, since the pendency of the special session surely must be the kind of "high unusual circumstances" which the rider itself exempts from congressional interference. But I think it would be most unfortunate to pass the rider and then have to go back to court just to get a ruling that the rider does not cover the Connecticut case. The delay needed just to get such a ruling would greatly complicate and confuse our situation.

On another point, let me make one suggestion to Senator DIRKSEN. He has defended his rider on the grounds that it secures States rights and he has resisted the argument that the rider should really be known as the "rotten borough" amendment. If his intention is not to cater to the rotten boroughs, but sincerely to concern himself with the interests of the States, then why does he provide that any member of a State legislature, no matter how "rotten" his borough, may come into court to delay reapportionment? If his concern is for the States, then let a stay be requested only when it is thought to be appropriate by the one official in every State who is elected by all the people of each State—the Governor. If delay would really serve the interests of a State, the Governor knows this. If anyone is to be given the power to request a mandatory stay, it should be the Governor who is elected by all the people.

It is most unfortunate that we should have to deal with this matter now, in the midst of the many pressures and distractions that always arise in the closing days of a session; on extremely short notice and without benefit of hearings or a report by the committee which, under the Senate's rules, should properly consider this weighty matter.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 284. An act for the relief of Ethel R. Loop, the widow of Carl R. Loop; and

S. 2944. An act for the relief of the Greater Southeast Community Hospital Foundation, Inc.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3049) to extend and amend laws relating to housing, urban renewal, and community facilities, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 12196) to amend the District of Columbia Police and Firemen's Salary Act of 1958, as amended, to increase salaries, to adjust pay alignment, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two

Houses thereon, and that Mr. McMILLAN, Mr. DOWDY, Mr. WHITENER, Mr. HORTON, and Mr. HARSHA were appointed managers on the part of the House at the conference.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore:

H.R. 1172. An act for the relief of Rolando de la Torre Arceo and John Anthony Arceo;

H.R. 1262. An act for the relief of Mrs. Maisie Magdalene Lim Ketchens;

H.R. 1341. An act to require passenger-carrying motor vehicles purchased for use by the Federal Government to meet certain passenger safety standards;

H.R. 2324. An act for the relief of Rosa Stefano Ratajczak;

H.R. 6040. An act for the relief of Chrisoula Baker;

H.R. 6578. An act for the relief of Mrs. Cesira Duddy;

H.R. 7132. An act for the relief of Wetsel-Oviatt Lumber Co., Inc., Omo Ranch, El Dorado County, Calif.;

H.R. 7617. An act for the relief of Vula Roed;

H.R. 8399. An act for the relief of Mrs. Edeltraud Englisch Franklin;

H.R. 9150. An act for the relief of Miss Leonor do Rozario de Medeiros (Leonor Medeiros);

H.R. 9290. An act for the relief of Danny Hiromi Oyama;

H.R. 9519. An act for the relief of Young Soon Kim and Tai Ung Choi; and

H.R. 11118. An act to provide for the disposition of funds from judgments in favor of the Nehalem Band of the Tillamook Indians and the Tillamook Band of the Tillamook Indians.

## VISIT TO THE SENATE BY MEMBERS OF THE GERMAN PARLIAMENT

Mr. CARLSON. Mr. President, we are honored today to have with us in the Senate Chamber Parliamentarians from the Federal Republic of Germany. They are members of the Bundestag. With us are Mr. Holger Boerner, a member of the Social Democratic Party; Mr. Herman Duerr, a member of the Free Democratic Party; Mr. Harry Liehr, a member of the Social Democratic Party; and Mr. Linus Memmel, a member of the Christian Social Party.

We are honored by their presence. They represent in their Parliament a great country which has been and is associated with us in preserving the principles of freedom and democracy for which our Nation has stood and is now standing. They represent a nation that is willing to be with us and serve with us in NATO, which is also a part of the great effort for the preservation of freedom. [Applause, Senators rising.]

I shall ask our guests to rise and, if it would be agreeable to the Presiding Officer, I ask unanimous consent that the Senate stand in recess for 3 or 4 minutes in order that Senators may shake hands with them.

The PRESIDING OFFICER. The Chair extends to our guests a hearty greeting, and hopes that their visit will be interesting.

There being no objection (at 2 o'clock and 27 minutes p.m.) the Senate took a recess.

At 2 o'clock 32 minutes p.m., the Senate reassembled, on being called to order by the Presiding Officer (Mr. MCINTYRE in the chair).

## CORRECTION OF INEQUITIES IN CONSTRUCTION OF FISHING VESSELS

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate the amendment of the House to S. 1106, a bill to correct inequities in the construction of fishing vessels.

The PRESIDING OFFICER. The Chair is advised that the papers have not yet been received from the House.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement concerning the bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

## STATEMENT BY SENATOR MAGNUSON

The House has passed, with a vote of 198 to 124, S. 1006, the fishing vessel subsidy bill, as amended.

## AMENDMENTS

1. Fifty percent subsidy in lieu of Senate's 55 percent.

2. June 30, 1969 expiration date in lieu of Senate's 1968.

3. New matter: House would permit Secretary of Interior, after notice and hearing, to approve transfer of vessel from one fishery, which has become uneconomical or less economical, to another fishery.

Section 5: House amended Senate 55 percent to 50 percent.

Section 9: House amended, main change is addition of "after notice and hearing." Herewith existing law and amended section 9 as proposed by House of Representatives.

## EXISTING LAW

If any fishing vessel is operated during its useful life, as determined by the Secretary, in any fishery other than the particular fishery for which it was designed the owner of such vessel shall repay to the Secretary, in accordance with such terms and conditions as the Secretary shall prescribe, an amount which bears the same proportion to the total construction subsidy paid under this act with respect to such vessel as the proportion that the number of years during which such vessel was not operated in the fishery for which it was designed bears to the total useful life of such vessel as determined by the Secretary for the purposes of this section. Obligations under this provision shall run with the title to the vessel.

## LAW AS AMENDED BY THE HOUSE OF REPRESENTATIVES

The Secretary of the Interior, in the exercise of his discretion, after notice and hearing, may approve the transfer of a vessel constructed with the aid of a construction subsidy, whose operations have become uneconomical or less economical because of an actual decline in the particular fishery for which it was designed, to another fishery where he determines that such transfer would not cause economic hardship or injury to efficient vessel operators already operating in that fishery. If any fishing vessel constructed with the aid of a construction subsidy in accordance with the provisions of this act, as amended, is operated during its useful life, as determined by the